

Arrests or Detention in The Bahamas

Purpose

The purpose of this informational material is to furnish a summary of applicable Bahamian laws and procedures to Americans arrested by Bahamian authorities.

This information package was prepared by the Consular Section of the American Embassy in Nassau, The Bahamas. Although the information contained herein was compiled with care and is believed correct, the material is intended as an informal guide to assist American citizens in understanding the laws and procedures governing the legal and penal system in The Bahamas and cannot be considered definitive or in any way a substitute for legal counsel. The United States Government cannot accept responsibility for the accuracy of the information contained herein or as to how Bahamian law will be applied by the authorities in a particular situation.

Jurisdiction of Bahamian Law

Any person, regardless of citizenship, who commits an offense within The Bahamas is subject to Bahamian criminal jurisdiction.

The Role of The United States Government

Under the provisions of Article 36 of the Vienna Convention on Consular Relations of 1963, to which both The Bahamas and the United States are signatories, a United States Citizen arrested or detained in another country has the right to communicate with a Consular Officer of the United States. It is important to note that this right does not extend to persons who are not citizens of the United States, even if they usually reside in the United States or have family members who are U.S. citizens.

In spite of anything you may have heard to the contrary, neither the United States Government nor its consular representatives can get an American out of prison. While in a foreign country, American citizens are subject to the same laws and regulations as all other persons in that country. American Consular Officers can and do intercede on behalf of Americans imprisoned overseas to ensure they are not discriminated against because of their nationality, but there are definite limits as to what they can do to help in any given situation. Neither arrest nor conviction, however, deprives a United States citizen of the

right to the Consular Officer's best efforts in facilitating the welfare and defense of the citizen's legal and human rights.

What the Consul Can Do

If you are a U.S. citizen who has been arrested or detained in The Bahamas, you should ask the police to notify the U.S. Embassy immediately. A Consular Officer can visit you in jail after being notified of your arrest in order to check on the treatment you are receiving and to monitor the state of your health and well-being. They can try to get relief if you are held under inhumane or unhealthful conditions. A consul can provide you with a list of local attorneys; the consul is not permitted, however, to recommend or endorse any particular attorney nor is she/he permitted by regulations to give you legal advice. In addition, the U.S. government cannot provide funds to pay for an attorney. At your request and with your written consent, the consul can notify your family and/or friends and relay requests for financial and other aid.

The Consular Officer can intercede with local authorities to ensure that your rights under local law are fully observed and that you are treated in accordance with internationally accepted standards. To do so, the Consul will follow the progress of your case in the judicial process and, where necessary and requested, act as liaison between you and your lawyer, the court, and the prosecutor.

Privacy Act

The Privacy Act of 1974 was enacted to protect American citizens against unauthorized disclosure of information about themselves to other persons without their knowledge and consent. Therefore, if an arrestee wishes the Consular Officer to notify his family or friends of his arrest or any other pertinent facts regarding his imprisonment, health, etc., he must authorize the Consular Officer to do so by signing a Privacy Act release form.

Bahamian Criminal Proceedings

The constitution provides for the right to a fair trial, and an independent judiciary generally enforced this right. Defendants enjoy a presumption of innocence until proven guilty and are permitted to question witnesses at trial and view government evidence. Defendants have a right to appeal. There is a functioning system of bail, but individuals who could not post bail were held on remand indefinitely.

The judicial system had a large and steadily expanding backlog of cases, numbering as high as 8,700, which included hundreds of cases of the most serious types of violent crime. There have been recent audits conducted to determine the actual scope of the problem of the legal system. Local legal professionals attributed delays to a variety of longstanding systemic problems, such as slow police investigation, inefficient prosecution strategies, lack of judicial capacity, lengthy legal procedures, staff shortages, and judicial inefficiency compounded by financial and space constraints. In November the government passed a bill to expand the possibilities for plea bargaining in order to speed trials and begin to address the backlog in the judicial system.

Defendants may hire an attorney of their choice, but the government will provide legal representation only to destitute suspects charged with capital crimes, leaving large numbers of defendants without adequate legal representation. Lack of representation can contribute to excessive pretrial detention, as some accused lacked the means to pursue the case toward trial.

For more information, please visit the current [Human Rights Reports on The Bahamas](#).